

REMARKS

Claims 1-2, 4, 26 and 83-85 are pending. Claims 4 and 26 are withdrawn. By way of this amendment, claims 1 and 2 have been amended. Amendment of the claims is made without prejudice, without intent to abandon any originally claimed subject matter, and without intent to acquiesce in any rejection of record. Applicants expressly reserve the right to file one or more continuing applications hereof containing the canceled or original claims. The amendments introduce no new subject matter.

I. Rejection under 35 U.S.C. § 112

Claim 1-2 and 83-85 have been rejected under 35 U.S.C. 112, second paragraph, as allegedly failing being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants respectfully traverse the rejection and its supporting remarks as one of skill in the art would have understood that the computer database being searched in later steps comprised SEQ ID NO:1 and therefore SEQ ID NO:1 was used in the later steps. However, to facilitate prosecution, applicants have amended claims 1 and 2 to make what was already clear even more clear, i.e., that SEQ ID NO:1 plays a role in the remaining steps.

Applicants therefore respectfully request that the Examiner withdraw the rejection under 35 U.S.C. 112, second paragraph.

II. Rejection of Under 35 U.S.C. § 103(a)

Claims 1, 2, and 83-85 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Ribot et al., WO 98/17805 ("Ribot") in view of Chee et al., US Patent No. 5,795,716 ("Chee").

Applicants respectfully traverse the rejection and its supporting remarks. The Examiner has asserted that one of skill in the art would read the recitation "the *N. meningitidis* serogroup B

strain MC58 genome sequence of SEQ ID NO:1" as reading on a small fragment of the genome. This interpretation is simply not supportable as one of skill in the art would clearly read this recitation as including the entirety of SEQ ID NO:1 in the computer database. However, Applicants have amended claim 1 to remove the recitation "the *N. meningitidis* serogroup B strain MC58 genome sequence of ..." as the language was only included for convenience to clarify the relationship between SEQ ID NO:1 and the recitation "the *N. meningitidis* serogroup B strain MC58 genome" in the preamble. This relationship is now provided in the preamble itself (though the relationship is also clearly set out in the specification in a number of places). Since claim 1 clearly requires that the computer database include the entire sequence of SEQ ID NO:1 and Ribot *et al* does not teach or suggest the entire sequence of SEQ ID NO:1, the Examiner has not established a *prima facie* case of obviousness due to the lack of this claim element.

As such, Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding objection and rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing attorney **Docket No. 529552001600**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: February 12, 2010

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